

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Pennsylvania

TRANSFER OF RESOURCES

1902(f) and 1917 of the Act The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value.

A. Except as noted below, the criteria for determining the period of ineligibility are the same as criteria specified in section 1613(c) of the Social Security Act (Act).

1. Transfer of resources other than the home of an individual who is an inpatient in a medical institution.

a. ☒ The agency uses a procedure which provides for a total period of ineligibility greater than 24 months for individuals who have transferred resources for less than fair market value when the uncompensated value of disposed of resources exceeds \$12,000. This period bears a reasonable relationship to the uncompensated value of the transfer. The computation of the period and the reasonable relationship of this period to the uncompensated value is described as follows:

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Supersedes

TN No. 88-05 and

86-14

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b. The period of ineligibility is less than 24 months, as specified below:

1917(c)(2)(D) of the Act
(OBRA 93) Pub. L. 103-66

c. X The agency has provisions for waiver of denial of eligibility in any instance where the State determines that a denial would work an undue hardship.

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2. Transfer of the home of an individual who is an inpatient in a medical institution.

☒ A period of ineligibility applies to inpatients in an SNF, ICF or other medical institution as permitted under section 1917(c)(2)(B)(i).

- a. Subject to the exceptions on page 2 of this supplement, an individual is ineligible for 24 months after the date on which he disposed of the home. However, if the uncompensated value of the home is less than the average amount payable under this plan for 24 months of care in an SNF, the period of ineligibility is a shorter time, bearing a reasonable relationship (based on the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

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- b. 1 Subject to the exceptions on page 2 of this supplement, if the uncompensated value of the home is more than the average amount payable under this plan as medical assistance for 24 months of care in an SNF, the period of ineligibility is more than 24 months after the date on which he disposed of the home. The period of ineligibility bears a reasonable relationship (based upon the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

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No individual is ineligible by reason of item A.2
if--

- (i) A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual can reasonably be expected to be discharged from the medical institution and to return to that home;
- (ii) Title to the home was transferred to the individual's spouse or child who is under age 21, or (for States eligible to participate in the State program under title XVI of the Social Security Act) is blind or permanently and totally disabled or (for States not eligible to participate in the State program under title XVI of the Social Security Act) is blind or disabled as defined in section 1614 of the Act;
- (iii) A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual intended to dispose of the home either at fair market value or for other valuable consideration; or
- (iv) The agency determines that denial of eligibility would work an undue hardship.

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3. 1902(f) States

☒ Under the provisions of section 1902(f) of the Social Security Act, the following transfer of resource criteria more restrictive than those established under section 1917(c) of the Act, apply:

B. Other than those procedures specified elsewhere in the supplement, the procedures for implementing denial of eligibility by reason of disposal of resources for less than fair market value are as follows:

1. If the uncompensated value of the transfer is \$12,000 or less:

2. If the uncompensated value of the transfer is more than \$12,000:

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3. If the agency sets a period of ineligibility of less than 24 months and applies it to all transfers of resources (regardless of uncompensated value):

4. Other procedures:

1917(c) of the Act (OBRA 93)
Pub. L. 103-66

Transfer of Assets

For transfers made on or after August 11, 1993, a period of restricted medical assistance coverage is provided if an institutionalized individual or the individual's spouse disposes of any countable assets for less than fair market value on or after the specified look-back date. The look-back is 36 months immediately before the date the individual is both institutionalized and has applied for medical assistance. In the case of payments from or portions of a trust treated as assets disposed of for less than fair market value, the look-back period is 60 months. The Agency complies with Section 1917 of the Act with respect to trusts. The number of months of ineligibility is equal to the total uncompensated value divided by the State's average monthly private pay rate in effect at the time of application.

During the period of restricted coverage the individual is not ineligible for all medical services. He/she is ineligible only for nursing facility services and equivalent care in a medical institution and for home and community-based services.

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Medical assistance coverage is not restricted if the title to the home was transferred to:

- the individual's spouse or his/her child who is under age 21, or who is blind or permanently and totally disabled;
- the individual's sibling who has an equity interest in the home and who was residing in the individual's home for a period of at least one year before the date the individual becomes an institutionalized individual; or
- the individual's son or daughter (other than a child who is under 21, or who is blind or permanently and totally disabled) who: (1) was residing in the individual's home for a period of at least two years immediately before the date of the individual's institutionalization and (2) who provided care to the individual which permitted the individual to reside at home rather than in a medical institution.

Medical assistance coverage is not restricted if:

- the assets were transferred to the individual's spouse (or to another for the sole benefit of the individual's spouse); were transferred from the individual's spouse to another for the sole benefit of the individual's spouse; were transferred to, or to a trust established solely for, the

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individual's child who is blind or permanently and totally disabled; or transferred to a trust established for the benefit of an individual under 65 years of age who is disabled;

- the individual makes a satisfactory showing that the individual intended to dispose of assets either at fair market value or for other valuable consideration; or the assets were transferred exclusively for a purpose other than to qualify for medical assistance; or
- denial of eligibility would result in undue hardship as determined by the Secretary of Health and Human Services.

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